

MAIL STOP APPEAL BRIEF - PATENTS
0512-1203

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of

Jerome MAILLARD et al.

Appeal No. _____

Application No. 10/799,591

Group 3746

Filed March 15, 2004

Examiner P. Hamo

A VENTILATION ASSEMBLY HAVING A COLLAR FOR THE RADIAL
CLAMPING OF THE FAN MOTOR, CORRESPONDING COOLING MODULE
FOR THE FRONT UNIT, AND CORRESPONDING MOTOR VEHICLE

REPLY BRIEF

MAY IT PLEASE YOUR HONORS:

As set forth in the Appeal Brief submitted June 9, 2008, there are two issues on appeal. However, as the same reference is the subject of both issues on appeal, this Reply Brief responds to both issues without separately arguing the two issues.

In continuing to seek to defend the rejection of claims 1, 7, 8 and 15 over COUETOUX under 35 USC §102(b) and 35 USC §103(a), the Examiner persists in the untenable position that the recited "collar for the radial clamping of the motor" does not require either that a radial force is exerted on the motor or that there is a clamp. The Examiner's position is that the claim only requires fastening so that movement in the radial direction is inhibited. See paragraph 10 bridging pages 5 and 6 of the Examiner's Answer.

However, this position is an unreasonably broad interpretation of the recited "collar for the radial clamping of the motor".

MPEP 2111 provides: "The Patent and Trademark Office ("PTO") determines the scope of claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction 'in light of the specification as it would be interpreted by one of ordinary skill in the art.' *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364[, 70 USPQ2d 1827] (Fed. Cir. 2004).

Indeed, the rules of the PTO require that application claims must 'conform to the invention as set forth in the remainder of the specification and the terms and phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description.'"

In the present case, the Examiner is eviscerating the claim by removing words of the claim and replacing them with words of his own.

The recited "collar for the radial clamping of the motor" requires a collar that radially clamps (on) the motor. Thus, in the present invention, the Examiner's notion of "inhibition of movement in the radial direction" is performed by the collar radially clamping on the motor. As such, the collar acts as a clamp on the motor. The terms "clamp", "clamps" and

"clamping" are used through the specification consistent with the commonly accepted usage of these words as parts brought together to hold or compress something. By way of example, by bringing two half-collars 28 to approach each other and fasten on the casing of the motor. See page 7, lines 4-10. Thus, it is clear from the claim itself and from how the claim would be reasonably interpreted by one of ordinary skill in the art upon reading the specification that a clamping function is required. Moreover, such clamping is in the radial direction, so that the collar radially clamps the motor.

Therefore, the Examiner's "fastening" to inhibit movement in the radial direction ignores the recited "radial clamping". That is, the claims require not only fastening, but radial clamping and thus, the Examiner's interpretation of the claims is unreasonably broad.

Applicant's position is further supported by the language of claim 7, which recites "the securing means also comprise a wedging block which is to be inserted between the motor and the collar in order to clamp the motor radially".

This claim requires the collar to clamp the motor radially. By way of example, the collar radially clamps or tightens on the wall of the motor and produces radial forces oriented toward the inside. See, for example page 7, lines 7-10.

Asserting that COUETOUX meets claim 7 or claim 1 is not only an unreasonably broad interpretation of the claims, but is also factually incorrect.

As set forth beginning at page 4, paragraph 3 of the arguments in the Appeal Brief, COUETOUX discloses a gap between collar 12, 14 and motor 26 that would not enable the collar to clamp the motor radially. See gap 58 in Figure 5 of COUETOUX, reproduced on page 5 of the Appeal Brief and the discussion therein regarding the gap. Such a gap in COUETOUX necessarily prevents the collar from the radial clamping of the motor.

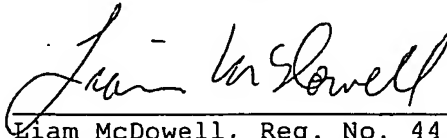
As to the Examiner's alternate interpretation of the claims set forth on the middle of page 6 of the Examiner's Answer, such interpretation is no more reasonable than the first interpretation.

Specifically, the screws of COUETOUX are angularly distributed about the flange 34, not radially. Further, the screws do not radially clamp the collar to the motor as required to meet the present claims. Instead, the screws axially clamp the motor to the collar.

Accordingly, reversal of the rejections set forth by
the Examiner is respectfully requested.

Respectfully submitted,

YOUNG & THOMPSON

A handwritten signature in cursive script, appearing to read "Liam McDowell", is written over a horizontal line.

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